

**IN THE MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Appellant,

v.

STEPHEN D. WRIGHT,

Respondent.

DOCKET NUMBER WD76647

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 22, 2014

APPEAL FROM

The Circuit Court of Macon County, Missouri
The Honorable Frederick P. Tucker, Judge

JUDGES

Division One: Martin, P.J., and Pfeiffer and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
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Attorneys for Appellant,

Rosalynn Koch, Assistant Public Defender
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Attorney for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
Appellant,)
v.) **OPINION FILED:**
) **April 22, 2014**
STEPHEN D. WRIGHT,)
)
Respondent.)

WD76647

Macon County

Before Division One Judges: Cynthia L. Martin, Presiding Judge, and Mark D. Pfeiffer and Karen King Mitchell, Judges

The State appeals from a judgment purportedly dismissing its information against Stephen Wright. The State contends that the trial court erred in dismissing the information because the information sufficiently states and appraises Wright of the essential elements of the charged offenses related to imitation controlled substances. Wright claims that the trial court correctly dismissed the information because his conduct does not come within the purview of the imitation controlled substance statutes. Because we are unable to discern exactly what the trial court's ruling was, or in fact, whether a final judgment was entered, the appeal is dismissed.

APPEAL DISMISSED; REMANDED FOR FURTHER PROCEEDINGS.

Division One holds:

1. It is unclear whether a judgment dismissing some, but not all, counts of a multi-count indictment or information is a final judgment for purposes of appeal. And the judgment here does not clearly indicate which, if not all, of the three counts were dismissed.
2. A court need not make factual determinations in order to rule on the sufficiency of a charging instrument.

3. There is currently no recognized procedural mechanism akin to summary judgment in the criminal context.
4. Where the court's judgment and the basis therefore are unclear, we must dismiss for lack of a final, appealable judgment.

Opinion by: Karen King Mitchell, Judge

April 22, 2014

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